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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DANIEL S. KING,

Plaintiff,

vs.

CITY OF HENDERSON,

Defendant.

Case No.: 2:19-cv-01129-JAD-BNW

**STIPULATION AND ORDER TO
EXTEND DISCOVERY**

(Second Request)

Plaintiff DANIEL S. KING and Defendant CITY OF HENDERSON, by and through their counsel of record, hereby STIPULATE AND AGREE that the current discovery cutoff date of **June 12, 2020**, be continued for a period of ninety (90) days up to and including **September 10, 2020**. This is the second extension to the discovery period that has been requested in this matter. The original discovery period, as set forth in ECF No. 23, set the discovery cut-off at April 13, 2020.

1. DISCOVERY COMPLETED TO DATE:

Plaintiff DANIEL S. KING and Defendant CITY OF HENDERSON, each made their initial disclosures required under Fed. R. Civ. P. 26(a)(1)(A), on December 16, 2019, in accordance with the Stipulated Discovery Plan and Scheduling Order (ECF No. 23):

1. Plaintiff served his First Supplement to Plaintiff's Initial Disclosures on January 17,

2020. Plaintiff served his Second Supplement to Plaintiff's Initial Disclosures on May 8, 2020. Plaintiff served his Third Supplement to Plaintiff's Initial Disclosures on May 15, 2020.

2. Defendant served "City of Henderson's First Supplement to Its Initial Disclosures" on March 10, 2020.

The parties entered into a Stipulated Protective Order (ECF No. 32), which was approved by this Court on March 3, 2020. An agreement on the terms of the Stipulated Protective Order was a prerequisite for full production of requested and relevant documentation in this case, as relevant material in this case would include the contents of public employee personnel files and internal affairs investigations of the City of Henderson Police Department.

Plaintiff propounded the following written discovery to Defendant:

1. "Plaintiff's First Set of Requests for Production of Documents," which were served by mail on January 17, 2020, and amended on January 18, 2020; Defendant served "City of Henderson's Response to Plaintiff's Amended First Set of Requests for Production of Documents" on March 10, 2020;

2. "Plaintiff's First Set of Interrogatories," which were served by mail on January 18, 2020; Defendant served "City of Henderson's Response to Plaintiff's First Set of Interrogatories" on February 20, 2020;

3. "Plaintiff's First Set of Requests for Admissions," which were served by mail on April 3, 2020; Defendant served "City of Henderson's Response to Plaintiff's First Set of Requests for Admissions" on April 30, 2020;

4. "Plaintiff's Second Set of Requests for Production of Documents," which were served by mail on April 3, 2020; Defendant served "City of Henderson's Response to Plaintiff's Second Set of Requests for Production of Documents" on April 30, 2020; and

5. "Plaintiff's Third Set of Requests for Production of Documents," which were served by mail on April 20, 2020; Defendant's responses are not yet due

Defendant propounded the following written discovery to Plaintiff:

1. "Defendant City of Henderson's First Set of Requests for Production of Documents to Plaintiff Daniel S. King," which were served by mail on February 26, 2020; Plaintiff served

1 “Objections and Responses to Defendant City of Henderson’s First Set of Requests for Production
 2 of Documents to Plaintiff Daniel S. King” on May 8, 2020, and, subsequently, “Amended Objections
 3 and Responses to Defendant City of Henderson’s First Set of Requests for Production of Documents
 4 to Plaintiff Daniel S. King” on May 15, 2020; and

5 2. “Defendant City of Henderson’s First Set of Interrogatories to Plaintiff Daniel S.
 6 King,” which also were served by mail on February 26, 2020; Plaintiff served “Objections to
 7 Defendant City of Henderson’s First Set of Interrogatories to Plaintiff Daniel S. King,” on May 8,
 8 2020, and “Objections and Responses to Defendant City of Henderson’s First Set of Interrogatories
 9 to Plaintiff Daniel S. King,” on May 15, 2020.

10 The parties currently are in discussions over disputes regarding the discovery responses. It
 11 is premature to determine whether or not these disputes can be resolved without court intervention.

12 **2. DISCOVERY YET TO BE COMPLETED:**

13 Plaintiff intends to take the following depositions:

- 14 1. David Burns;
- 15 2. Joe Cabanban;
- 16 3. Michael Denning;
- 17 4. Wendy Medura Krincek, Esq.; and
- 18 5. Latesha Watson;

19 Names made be added to, or omitted from, this list, based on depositions taken and the
 20 review of the document production.

21 Defendant intends to take the deposition of Plaintiff Daniel S. King and may schedule other
 22 depositions following a review of Plaintiff’s responses received to its discovery requests.

23 **3. REASONS WHY REMAINING DISCOVERY HAS NOT YET BEEN COMPLETED:**

24 The parties got a late start on the discovery process due Plaintiff initially filing his complaint
 25 pro se. The stipulated discovery plan was filed six weeks into the originally-requested 180-day
 26 discovery period. Only four months remained of the original discovery period by the time the parties
 27 made their respective initial disclosures. While the parties understood that a 180-day likely would
 28 be insufficient because of the large number of potential witnesses to be deposed, the parties decided

1 to opt for the standard 180-day discovery period at the onset and to request additional time based on
2 what has transpired.

3 Discovery has not been completed due to a number of issues that have arisen:

4 1. The limited shutdown of operations due to the COVID-19 coronavirus, which has
5 affected law firms, governmental agencies, and the courts, has slowed down the discovery process
6 in this case. Work has proceeded on this case throughout the shutdown period, but it has proceeded
7 much more slowly than it would have during ordinary times.

8 2. Defendant filed “Defendant City of Henderson’s Motion to Dismiss, or in the
9 Alternative, for a Stay Pending Arbitration” (ECF No. 9) on October 14, 2019. In response, Plaintiff
10 filed not only an opposition (ECF No. 17), but also “Plaintiff’s Countermotion for Leave of Court
11 to File First Amended Complaint” (ECF No. 18). Defendant withdrew its motion to compel
12 arbitration aspect of “Defendant City of Henderson’s Motion to Dismiss, or in the Alternative, for
13 a Stay Pending Arbitration” (ECF No. 29). However, the underlying motion to dismiss the matter
14 on the merits, and the countermotion for leave to amend, are still pending before this Court. Because
15 of the pending dispositive motion, Defendant has not filed an answer or enunciated defenses. The
16 fact that Defendant has not yet filed an Answer, along with the fact that there has not yet been a
17 ruling on Plaintiff’s countermotion for leave to amend his complaint, means that the parties have not
18 yet fully established the claims and defenses that are at issue in this matter. In particular, whether
19 the Court allows Plaintiff to proceed on a claim for relief under 42 U.S.C. § 1981, which is a claim
20 that was newly-pled in the proposed First Amended Complaint, will substantially affect the scope
21 of depositions in this case. The resolution of this countermotion also will affect one of the discovery
22 issues that the parties are discussing that has arisen from “Plaintiff’s Second Set of Requests for
23 Production of Documents” and Defendant’s responses to that set of requests.

24 3. A large number of individuals with knowledge of the material allegations in the
25 complaint were identified by Plaintiff pursuant to Fed. R. Civ. P. 26(a)(1)(A). Once Defendant files
26 its answer and identifies its defenses, and once written responses to the discovery requests made
27 under Fed. R. Civ. P. 34 are made, the number of individuals who may need to be deposed may
28 expand beyond that set forth above.

4. REVISED DISCOVERY PLAN:

1. Discovery Cut-Off Date: **September 10, 2020**.

2. Dispositive Motions: The date for filing dispositive motions shall be not later than **October 13, 2020**, 30 days after the discovery cut-off date.¹ In the event that the discovery period is extended from the discovery cut-off date set forth in this Stipulation and Order to Extend Discovery (Second Request), the date for filing dispositive motions shall be extended for the same duration, to be not later than 30 days from the subsequent discovery cut-off date.

3. Pretrial Order: The date for filing the joint pretrial order shall be not later than **November 12, 2020**, 30 days after the date set for filing dispositive motions. In the event that dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until 30 days after decision on the dispositive motions or until further order of the court.

4. Additional Extensions of the Discovery Period: The last day for the parties to file their Motion and/or Stipulation to Extend Discovery shall be **August 20, 2020**, twenty (21) days prior to the revised discovery cut-off.

5. Any discovery deadline not extended in accordance with the Revised Discovery Plan set forth above shall remain controlled by the Stipulated Discovery Plan and Scheduling Order (ECF No. 23), as approved by the Court on December 3, 2019.

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¹ October 10, 2020, the thirtieth day following the end of the discovery period, is a Saturday. With Monday, October 12, 2020, being a federal holiday, the deadline would be moved to Tuesday, October 13, 2020.

No trial date has yet been ordered.

DATED: May 20, 2020.

LAW OFFICES OF ROBERT P. SPRETNAK

By: /s/ Robert P. Spretnak
Robert P. Spretnak, Esq.

Attorney for Plaintiff

8275 S. Eastern Avenue, Suite 200
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DATED: May 20, 2020.

CITY OF HENDERSON

By: /s/ Brian R. Reeve
Nicholas G. Vaskov, Esq.
Brian R. Reeve, Esq.
Kristina E. Gilmore, Esq.

Attorneys for Defendant

240 Water Street, MSC 144
Henderson, Nevada 89015

IT IS SO ORDERED

DATED: May 21, 2020



BRENDA WEKSLER

UNITED STATES MAGISTRATE JUDGE